

## Center for Judicial Accountability, Inc. (CJA)

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**From:** Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>  
**Sent:** Thursday, July 5, 2018 11:24 AM  
**To:** 'Brodie, Frederick'  
**Cc:** 'Paladino, Victor'  
**Subject:** FURTHER STATUS: appeal & OSC: CJA v. Cuomo, et al.  
**Attachments:** cover-record-vol-3-brodie.doc

Dear Assistant Solicitor General Brodie –

Mercifully, I believe I am just about done with the Record on Appeal and Brief – which are posted on CJA’s website, at #7 under the title “Happy Fourth of July!”, here: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/complaints-notice/moving-forward-appeal.htm>.

I have added the missing pages, 634, 1248a, and 1260a. As for page 581, it is my September 23, 2016 transmitting e-mail that was beneath the September 30, 2016 e-mail response of the Secretary of the Senate, which is page 580. As it is utterly superfluous, I may have tossed it from what I served and filed. I do not know. I am perfectly willing to put an X through the page to signify that it is to be disregarded.

As I am not contesting service, there is no need for me to move defendants’ answer to accommodate the affidavit of service, which we have agreed can be dispensed with.

As you know, bound volumes cannot be more than 1-1/2 inches – and, therefore, I will need to bind each copy of the record in three volumes. The Clerk’s Office instructed me that each must include the FULL Table of Contents. The CPLR 5531 statement is only in the first – and the last volume contains the stipulation in lieu of certification pursuant to CPLR 5532.

I have enclosed the cover for the 3<sup>rd</sup> volume. Am I correct to have included your name beneath Attorney General Underwood’s – and your phone number?

Finally, with respect to your objection to including in the Table of Contents for the Record on Appeal an itemization of the free-standing exhibits that I brought to court and filed on March 29, 2017, with the original order to show cause that Judge Hartman had signed, Section 800.5(1)(a)(6) of the court rules states: “...All exhibits, whether omitted from the record or not, shall be listed and briefly described in the table of contents.” I have done that – and additionally added clarifying record references pertaining to the free-standing exhibits so that there will be no question that they are NOT “legislative history materials”, but, rather, the open-and-shut, *PRIMA FACIE* EVIDENCE that entitled plaintiffs to the TRO and other injunctive and declaratory relief their March 29, 2017 order to show cause sought, *as a matter of law* – NO HEARING REQUIRED.

Obviously, if because of the included itemization in the Table of Contents (at pp. viii), you will not stipulate to the record, I will include a request that the Court determine the matter in the order to show cause that I will now be drafting – and hope to present on July 11th.

Please advise, as soon as possible.

Thank you.

Elena Sassower